

**70-3a-404 Remedies.**

- (1)
  - (a) An owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits or imitations of the mark.
  - (b) A court of competent jurisdiction may grant injunctions to restrain the manufacture, use, display, or sale as may be considered by the court just and reasonable.
- (2) A court may:
  - (a) require the defendants to pay the owner:
    - (i) all profits derived from the wrongful manufacture, use, display, or sale of a registered mark; or
    - (ii) all damages suffered because of the wrongful manufacture, use, display, or sale of a registered mark;
  - (b) order that any counterfeits or imitations of a registered mark in the possession or under the control of any defendant in an action be delivered to the following to be destroyed:
    - (i) an officer of the court; or
    - (ii) the complainant; or
  - (c) take a combination of the actions described in Subsections (2)(a) and (b).
- (3) A court may enter judgment for the prevailing party:
  - (a) in an action where the court finds:
    - (i) the other party committed the wrongful act:
      - (A) with knowledge;
      - (B) in bad faith; or
    - (ii) as according to the circumstances of the case; and
  - (b) in an amount not to exceed:
    - (i) three times the profits and damages of the prevailing party; and
    - (ii) the reasonable attorneys fees of the prevailing party.
- (4) The enumeration of any right or remedy in this section does not affect a registrant's right to prosecute under any penal law of this state.

Enacted by Chapter 318, 2002 General Session